IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.59 of 2000

Decided on : June 13, 2007

State of Himachal Pradesh **....Appellant.**

VERSUS

Lobhi Ram and others **....Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant **:** Mr. Ashok Chaudhary, Additional Advocate General.

For the respondents **:** Mr. Vikram Singh, Advocate, vice M/s Dalip Sharma & Shrawan Dogra, Advocates.

Surjit Singh, Judge (Oral)

Respondents were tried for voluntarily causing hurts to one Tulsi Ram, PW-1, by means of a Kudali and Dandas, on 2.1.2995, when he objected to the ploughing of certain piece of land by the respondents, with respect to which stay had been granted in his favour by a Civil Court.

2. Trial Court has acquitted the respondents with the finding that two independent witnesses examined by the prosecution, namely PW-2 Mansa Ram and PW-3 Chet Ram do not corroborate the testimony of PW-1 Tulsi Ram(injured).

3. The State, aggrieved by the judgment and the aforesaid finding of the trial Court, has filed the present appeal. The grievance of the State-appellant is that the evidence has not been appreciated

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Whether the reporters of the local papers may be allowed to see the Judgment?

by the trial Court correctly and that as a matter of fact the testimony of PW-1 Tulsi Ram is corroborated by medico legal evidence and also to some extent by the testimony of PW-2 Mansa Ram and PW-3 Chet Ram.

4. I have heard the learned Additional Advocate General and the learned counsel appearing for the respondents.

5. PW-1 Tulsi Ram in his deposition categorically stated that one blow was dealt on his head with *Kudali* by respondent Lobhi Ram and the other respondents dealt blows of *Dandas* on his person. PW-4 Dr. Devinder Kumar, who conducted the medico legal examination of PW-1 Tulsi Ram, found five injuries on his person. One of the injuries was an incised wound on the scalp which, in the opinion of PW-4 Dr. Devinder Kumar, was possible with *Kudali* Ex.P-6. About other four injuries, PW-4 Dr. Devinder Kumar testified that they could have been caused by means of *Dandas* Ex.P-2 to Ex.P-5. Thus, the testimony of PW-1 Tulsi Ram is corroborated by the medico legal evidence. The other two witnesses, namely PW-2 Mansa Ram and PW-3 Chet Ram have though not fully corroborated the version of PW-1 Tulsi Ram in the sense that they do not say anything about the role of the respondents, other than respondent Lobhi Ram, yet this omission on their part cannot be said to be of much significance, in view of the fact that the testimony of PW-1 Tulsi Ram, injured, is corroborated by medico legal evidence.

6. *Kudali* Ex. P-6 by which injury No.1 was caused is not a sharp edged weapon, according to the testimony of PW-4 Dr. Devinder Kumar. Also, there is no evidence that *Kudali* Ex. P-6 is a

lethal weapon. Therefore, the respondents cannot be said to have committed the offence punishable under Section 324 IPC. However, the evidence on record, as discussed hereinabove, establishes the commission of offence punishable under Section 323 read with Section 34 IPC by all the respondents.

7. In view of the abovestated position, appeal is accepted. Judgment of the trial Court, acquitting the respondents, is set aside. All the five respondents are convicted of the offence under Section 323 read with Section 34 IPC. However, taking into account the fact that the incident had taken place more than 12 years back and the respondents have undergone the agony of trial for more than four years in the trial court, it is felt that ends of justice would be met if they (the respondents) are let off after admonition. Accordingly, all the respondents are released with admonition. Appeal stands disposed of.

June 13, 2007(sd) **(Surjit Singh), J.**